



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

NOV 29 2011

Robert Larsen
Environmental Scientist
California Regional Water Quality Control Board,
Lahontan Region
2501 Lake Tahoe Boulevard
South Lake Tahoe, CA 96150

Re: Draft MS4 Permit for the City of South Lake Tahoe, El Dorado County and Placer County (NPDES Permit No. CAG616001)

Dear Mr. Larsen:

The following are EPA Region 9's comments on the draft NPDES permit (permit No. CAG616001) dated November 22, 2011, for discharges from the municipal separate storm sewer system (MS4) serving the City of South Lake Tahoe, El Dorado County and Placer County. We note that another version of the permit had been proposed by the Board on October 31, 2011, but that version was recently updated by Board staff to become the November 22, 2011 draft which will be considered for adoption at the December 2011 Board meeting.

In a letter dated September 9, 2011, Region 9 provided comments and raised a number of concerns regarding a tentative draft of this permit dated August 10, 2011. We believe the concerns raised in our September 9, 2011 letter have been largely addressed in the November 22, 2011 draft permit, and we appreciate the efforts of Board staff in this regard. As such, Region 9 supports the adoption of the latest draft permit. However, we also offer for the Board's consideration the following suggestions for relatively minor revisions and clarifications:

A. *Implementing the Lake Tahoe TMDL*

We are pleased to see the November 22, 2011 draft permit was modified from the August 2011 draft to include additional clarity and detail concerning implementation of the TMDL through the Lake Clarity Crediting Program. Following below are suggestions which we believe will further strengthen the permit provisions related to the TMDL:

Section IV.D – This section acknowledges the potential of new developments and redevelopments to increase pollutant loading, and is clear that actions to control such increases would not be counted toward annual reduction requirements. We suggest clarifying whether the permittee is expected to revise the Pollutant Loading Reduction Plan (PLRP) to address or compensate for circumstances in which the pollutant loading increases due to discharges from

new developments or redevelopments to stay on track with the overall pollutant reduction requirements of the TMDL.

Attachment C, section I.G – For catchments not registered in the Lake Clarity Crediting Program, the October 31, 2011 draft permit would have required a reassessment by March 15, 2015 of whether any changes had occurred which could affect the baseline estimate. We were pleased to see the November 22, 2011 draft included a revision to require this reassessment on an annual basis; this revision will provide more timely information to the Board and the permittees on this potentially important issue. Further, Attachment C, section IV.A already requires an annual progress report in implementing the PLRP, and an annual reassessment of the baseline estimate would seem to fit smoothly with and be a useful addition to the annual progress report.

We suggest clarifying whether the permit requires revisions to the PLRP (such as implementation of additional BMPs) as necessary to offset any increases in pollutant loading which may have occurred in catchments that are not registered. We recognize that the November 22, 2011 draft permit requires that catchments with such changes be registered in the Crediting Program, but we recommend explaining more clearly what actions are required following catchment registration in this case.

The second paragraph in this section also appears to need revision; you may have intended something like the following:


“As part of this assessment, each Permittee shall determine if the magnitude of land use, impervious cover, and operations and maintenance practices are such ~~has confirmed~~ that the model assumptions and input variables used to calculate the Permittee’s baseline pollutant load estimates are ~~no~~ still valid and that such changes have not caused any increase in pollutant loads beyond the baseline estimate.”

B. Other MS4 Permit Requirements

In our September 9, 2011 letter, we expressed concern that given the Board’s focus on the TMDL, other basic MS4 permit programs were being neglected, and the permit could fail to control pollutants in the discharges to the maximum extent practicable as required by the Clean Water Act (section 402(p)(3)(B)). We also noted the need for clear, measurable requirements in MS4 permits to ensure an effective and enforceable permit. We are pleased to see additional requirements to address these concerns in the November 22, 2011 draft permit including specific requirements for industrial/commercial facilities, construction sites and illicit discharges which will strengthen and clarify the permit. We have also noted that the MS4 permit program is intended to be flexible and consider local factors in determining permit priorities. While the latest draft of the Lake Tahoe MS4 permit may still be less detailed in some of its requirements than other recent California MS4 permits, given the critical importance of the TMDL, and the substantial implementation requirements and permittee resources necessary to implement the TMDL, we believe that overall the permit represents an appropriate balance of the various relevant factors. As such, we again urge the Board to adopt the draft permit.

We appreciate the opportunity to provide our views on the draft permit. If you would like to discuss these comments, please contact Eugene Bromley of the NPDES Permits Office at (415) 972-3510.

Sincerely,

 11/29/11

David Smith, Manager
NPDES Permits Office (WTR-5)